



County of San Bernardino
F A S
STANDARD CONTRACT

FOR COUNTY USE ONLY

E	<input checked="" type="checkbox"/>	New	Contractor Code		SC	Dept.	CFD	A	Contract Number		04-
M	<input type="checkbox"/>	Change							Contractor's License No.		
X	<input type="checkbox"/>	Cancel							Contractor's License No.		
County Department Consolidated Fire District					Dept. Fire		Orgn. Haz Mat		Contractor's License No.		
County Department Contract Representative Peter Brierty					Ph. Ext. 387-8410				Amount of Contract \$1,587,500		
Commodity Code			Contract Start Date 01-01-05		Contract End Date 06-30-07						
Fund SKX	Dept. 106	Organization 160	Appr. 200	Obj/Rev Source 2445	Activity	GRC/PROJ/JOB Number					
Fund	Dept.	Organization	Appr.	Obj/Rev Source	Activity	GRC/PROJ/JOB Number					
Fund	Dept.	Organization	Appr.	Obj/Rev Source	Activity	GRC/PROJ/JOB Number					
Project Name				Estimated Payment Total by Fiscal Year							
				FY	Amount	I/D	FY	Amount	I/D		
Household Hazardous				04/05	\$317,500						
Waste Disposition				05/06	\$635,000						
Services				06/07	\$635,000						

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino Consolidated Fire District, hereinafter called the District or County, and

Name

Teris LLC. dba MSE Environmental

hereinafter called **Contractor**

Address

880 West Verdulera Street

Camarillo, CA 93010

Phone

(805) 987-0217

Fax

(805) 987-8718

Federal ID No. or Social Security No.

77-0186230

IT IS HEREBY AGREED AS FOLLOWS:

ARTICLE 1. DEFINITIONS

- 1.1 Appropriate Authorities - Any private, local, municipal, county, state, regional, or federal authority, or other public agency.
- 1.2 Approved Program Costs - The estimated Program costs approved by the District at the time the Contractor renders service.
- 1.3 Special Districts Department (or Department) - The Department of the County of San Bernardino authorized by the Governing Board of the District to administer this Contract.
- 1.4 Board (or Governing Board) - Board of Supervisors of the County of San Bernardino.
- 1.5 Program – Household Hazardous Waste Program as administered by Program Manager that includes the collection of household hazardous waste streams received from the public at specific collection facilities throughout the County in accordance with laws and requirements set forth and the proper identification, packaging, storage, and preparation for disposition and/or recycling of same.

- 1.6 Program Budget - Funding in place, for the complete administration of this program, as established by the District.
- 1.7 Program Representative (Inspector) - The District employee(s) responsible to the Program Manager for the inspection of the work.
- 1.8 CRTs – abbreviation for Cathode Ray Tubes.
- 1.9 District – County Service Area 70, County Fire Department, Household Hazardous Waste Division, Office of County Fire Marshal and its representatives, as herein stated.
- 1.10 Director - The Director of the Special Districts Department of the County of San Bernardino.
- 1.11 E-waste – As defined by California Department of Toxic Substances Control.
- 1.12 Itemized Categories of Work - Those applicable and specific categories of work necessary for successfully carrying out the Program including, but not limited to: providing trained and qualified staff to assist District, providing approved and appropriate storage containers, providing and directing qualified and approved transporters, utilizing permitted and approved TSD facilities, recycling waste streams in accordance with current laws and environmental requirements.
- 1.13 Program Contractor - Any person, designated by Contractor and approved by District, responsible for Contractor's work.
- 1.14 Program Manager - The District employee responsible for the administration of the County's Household Hazardous Waste Program as delegated by the County Fire Marshal.
- 1.15 Project Manager – The Special Districts Department employee responsible for the administration of this contract only and not directly involved with the Program or the District.
- 1.16 Fixed Site(s) – Permanent Household Hazardous Waste Collection Facilities
- 1.17 City - Local jurisdictions that contract with the County for Household Hazardous Waste management services.
- 1.18 Household Hazardous Waste – The California Health and Safety Code defines household hazardous waste as "hazardous waste generated incidental to owning and or maintaining a place of residence. It does not include hazardous waste generated by virtue of owning or operating a business at a residence. Conditionally Exempt Small Quantity Generator is defined as businesses that generate no more than 220 pounds or 27 gallons or 2.2 pounds of extremely hazardous waste per month.
- 1.19 County Fiscal Year – San Bernardino County Fiscal Year is from July 1st, through June 30th of the following year.

ARTICLE 2. PROGRAM

2.1 Scope of Work

The District does hereby engage Contractor to perform for the District under the terms and conditions in this Contract all required services relative to collecting, transporting, storing, disposing, and recycling Household Hazardous Waste (HHW) for the District's HHW Program. This agreement does not include the collecting, transporting, storing, disposing, and recycling of the following wastes that are handled under

separate independent contracts and/or purchase orders with other contractors: used oil, oil filters, spent antifreeze, automotive batteries, spent photo waste, Ni-Cad batteries and empty containers.

2.2 Fiscal Provisions

- a. The maximum amount of payment under this Contract shall not exceed \$317,500 for the period of January 1, 2005 through June 30, 2005, \$635,000 for County Fiscal Year 2005-06, and \$635,000 for County Fiscal Year 2006-07 for the term described under Article 6 and shall be subject to availability of funds to the District. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services.
- b. The District shall compensate the Contractor based upon Contractor's invoices submitted, not more frequently than monthly and as approved by the District per work completed based on fees noted in Attachment A – "Costs" for itemized containers of HHW, hauled, disposed and recycled. In addition, hourly labor reports will be submitted and verified by District for actual labor hours performed by Contractor.
- c. Fees for services under the terms of this Contract will be incurred during the contract period.
- d. Funds made available under this Contract shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Contract. Contractor shall not claim payment from District for, or apply sums received from District with respect to that portion of its obligations that have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the District.
- e. District is not liable for the payment of any taxes, other than applicable sales or use tax, resulting from this Contract, however designated, levied or imposed, unless District would otherwise be liable for the payment of such taxes in the course of its normal business operations.

2.3 Responsibilities of Contractor

- a. Transport all hazardous waste (unless County chooses to transport waste) via a hazardous waste transporter who is licensed with the State of California Department of Toxic Substances Control and must have all necessary federal, state and local permits and approvals. Copies of these permits/licenses must be submitted to District. All drivers, vehicles and equipment used to transport program hazardous waste shall be certified for use in handling and transportation of hazardous waste.
- b. Transport all hazardous wastes in accordance with all federal, state and local laws and regulations to pre-designated recycling, treatment or disposal facilities selected by the County and licensed by the resident state and the United States Environmental Protection Agency. The California Department of Toxic Substances Control must approve facilities located within the State of California.
- c. Transport five (5), forty thousand-(40,000) pound, truckloads of waste per month from the Program within 72 hour notice from the Program from any location within San Bernardino County.
- d. Provide, upon request, up to five (5) workers to staff the COUNTY's temporary collection facility events within the contract year in any location throughout San Bernardino County.
- e. Provide shipping containers which meet current Department of Transportation standards and absorbent, if needed, to any or all of the collection centers within 24 hours of notification by District.

- f. Review manifests, packaging, marking and labeling of drums or containers and their inventory sheets for consistency with federal, state and local laws and regulations, and in accordance with the disposal facility's rules and regulations concerning hazardous wastes which they accept.
- g. Itemize cost per pound for each individual waste stream, driver time per hour, truck time per hour and supplies per unit on all invoices.
- h. Provide a Certificate of Destruction or Recycling or Treatment for all wastes received at facilities and itemized by container.
- i. Contractor shall notify District in writing of any change in mailing address within ten (10) business days of the address change.
- j. In the event of a problem or potential problem that will impact the quality or quantity of work or the level of performance under this Contract, notification will be made to District within one business day, in writing and by telephone.
- k. Contractor shall make every reasonable effort to prevent employees, consultants or members of its governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others, such as those with whom they have family, business, or other ties. In the event District determines a conflict of interest exists, any increase in costs associated with the conflict of interest may be disallowed by District and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, agents, or employees have family, business or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicants and such persons have successfully competed for employment with other applicants on a merit basis.
- l. It is understood by Contractor that the District may contract with outside contractors in connection with unscheduled events or emergencies outside the scope of this contract. Contractor agrees to cooperate with District and such contractors as may be employed by District.

ARTICLE 3. BASIC SERVICES OF CONTRACTOR

The services to be rendered by the Contractor shall consist of all such services as customarily performed, specifically including the following:

- 3.1 Process all matters relating to this contract through a single point of contact, the Project Manager.
- 3.2 Consult with authorized employees, agents, and representatives of the District and other agencies having jurisdiction relative to the Household Hazardous Waste Program.
- 3.3 Make field trips as required to review conditions, and properly prepare for collection events throughout San Bernardino County.
- 3.4 Attend meetings as scheduled by the District or the Department.
- 3.5 Contract for sub-Contractors, at Contractor's expense, to the extent necessary for the satisfactory attention to the Program (see limitations – Article 10).
- 3.6 Designate a principal or member of Contractor's staff satisfactory to District as the Primary Project Manager who shall, as long as his performance continues to be acceptable to District, remain in charge of the required services of the Program. Contractor, or Contractor's Primary Project Manager, must respond to

District inquiries within two- (2) business days. Contractor shall not change the primary contact without written acknowledgement to the District.

- 3.7 Obtain and maintain requirements, permits and procedures of appropriate authorities, and other agencies whose jurisdiction affects the scope of services being provided by the Contractor.
- 3.8 Coordinate, schedule, staff as required, provide containers as needed, load, haul, transport, dispose, store and recycle as applicable, District collected HHW at various District operated collection facilities.
- 3.9 Prepare and maintain required documentation to include chain of custody receipts, recycling and disposal certifications. Maintain required permits in good standing, and utilize transporters with proper certifications and licenses.

ARTICLE 4. RECORDS

All records relating to the Contractor's personnel, Contractor services and extra services, pertaining to the Project shall be kept in a generally acceptable accounting format and shall be available to the District upon request. Contractor's and sub-contractor's permits, licenses and insurances shall be kept valid and in good standing for the term of this agreement. Failure to keep such permits, licenses and insurances valid and in good-standing would be a material breach of this agreement that would authorize the District to immediately terminate this agreement (see Article 7.) Disposal, transporting, storage and recycling records shall be diligently accomplished and copies forwarded to District upon completion.

ARTICLE 5. DISTRICT RESPONSIBILITIES

The District is responsible to provide the following:

- 5.1 Provide information relating to facility requirements, locations and times of scheduled events, and overall program scheduling.
- 5.2 Notify the Contractor in writing of District procedures required and name the District representative authorized to act on its behalf. The District shall review documents submitted by the Contractor and shall promptly render decisions pertaining thereto to avoid unreasonable delay in the progress of the Project.
- 5.3 Nothing in this Agreement, nor any act or failure to act on the part of the District, shall be construed as a waiver of a claim by the District for any defects or deficiencies in the service requested.
- 5.4 District shall comply and adhere with current safety directives.

ARTICLE 6. TERM

- 6.1 This Contract is effective as of January 1, 2005 through June 30, 2007, but may be terminated in accordance with provisions of this Article and Article 7 of the Contract.
- 6.2 The District may terminate the Contract immediately under the provisions of Article 7 of the Contract. In addition, the Contract may be terminated without cause by the District by serving a written notice to the Contractor thirty (30) days in advance of termination. The Fire Marshal or his designee is authorized to exercise the District's rights with respect to any termination of this Contract. Contractor will only be reimbursed for costs and uncancelable obligations incurred prior to the date of termination. Contractor will not be reimbursed for costs incurred after the date of termination. Upon receipt of termination notice, Contractor shall promptly discontinue services unless the notice directs otherwise. Contractor shall deliver promptly to District and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

ARTICLE 7. CORRECTION OF PERFORMANCE DEFICIENCIES

- 7.1 Failure by Contractor to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.
- 7.2 In the event of a non-cured breach, District may, at its sole discretion and in addition to immediate termination and any other remedies available at law, in equity, or otherwise specified in this Contract:
- a. Afford Contractor thereafter a time period within which to cure the breach, which period shall be established at sole discretion of District; and/or
 - b. Discontinue reimbursement to Contractor for and during the period in which Contractor is in breach, which reimbursement shall not be entitled to later recovery; and/or
 - c. Withhold funds pending duration of the breach; and/or
 - d. Offset against any monies billed by Contractor but yet unpaid by District those monies disallowed pursuant to Item "2" of this paragraph; and/or
 - e. Terminate this Contract and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In event of such termination, the District may proceed with the work in any manner deemed proper by the District. The cost to the District shall be deducted from any sum due to the Contractor under this Contract and the balance, if any, shall be paid by the Contractor upon demand.

ARTICLE 8. INDEMNIFICATION AND INSURANCE REQUIREMENTS

The Contractor agrees to indemnify, defend and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. The contractor's indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract the following types of insurance with limits as shown:

Workers' Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with not less than \$250,000 limits covering all persons providing services on behalf of the Contractor and all risks to such persons under this Agreement.

If the Contractor has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage may be waived by the County's Risk Manager.

With respect to Contractors that are non-profit corporations organized under California or Federal Law, volunteers for such entities are required to be covered by Workers' Compensation insurance. If the County's Risk Manager determines that there is no reasonably priced coverage for volunteers, evidence of participation in a volunteer insurance program may be substituted.

General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a

combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- (a) Premises operations and mobile equipment.
- (b) Products and completed operations.
- (c) Broad form property damage (including completed operations).
- (d) Explosion, collapse and underground hazards.
- (e) Personal injury
- (f) Contractual liability.
- (g) \$3,000,000 general aggregate. This aggregate limit shall apply separately to the Contractor's work under this agreement.

Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable

Umbrella Liability – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a 'dropdown' provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

Errors and Omissions Liability Insurance with limits of not less than one million (\$1,000,000) and three million (\$3,000,000) aggregate limits

Environmental Liability. Combined single limit of not less than five million (\$5,000,000) per claim or occurrence and a separate aggregate for the contract project. The required additional insured endorsement shall protect the County without any restrictions.

If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and must be before the date of the start of the contract work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after contract completion

Additional Insured – All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.

Waiver of Subrogation Rights – The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.

Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

Severability of Interests – The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that

preclude coverage for suits between the Contractor and the County or between the County and any other insured or named insured under the policy.

Proof of Coverage – The Contractor shall immediately furnish certificates of insurance to the County Department administering the contract evidencing the insurance coverage, including endorsements, as required prior to the commencement or performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this Agreement, the Contractor shall furnish a copy of the Declarations page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

Acceptability of Insurance Carrier – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum “Best” Insurance Guide rating of “A- VII”.

Deductibles and Self-Insured Retention - Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by the County’s Risk Management.

Failure to Procure Coverage – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured or is canceled and not replaced, the County has the right to cancel the contract or obtain insurance but not the duty to obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.

Insurance Review – Insurance requirements are subject to periodic review by the County. The County’s Risk Manager is authorized, but not required, to reduce, waive or suspend any insurance requirements, whenever the Risk Manager determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Risk Manager determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County’s risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

Insurance Specifications

The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract operations.

ARTICLE 9. SUCCESSORS AND ASSIGNS

9.1 This Contract shall be binding upon the District and Contractor and their respective successors and assigns.

- 9.2 Without the prior written consent of District, the agreement is not assignable by Contractor either in whole or in part.

ARTICLE 10. SUBCONTRACTORS

Contractor agrees not to enter into any subcontracting agreements for work contemplated under the Contract without first obtaining written approval from the District. Any subcontractor shall be subject to the same provisions as Contractor. Contractor shall be fully responsible for the performance of any subcontractor.

ARTICLE 11. NOTICES

- 11.1 Any notice may be served effectually upon the District by delivering it in writing, or by depositing it in a United States mail deposit box with the postage thereon fully prepared and addressed to Special Districts Department, 157 West 5th Street, San Bernardino, CA 92415-0450, or any notice may be served effectually by delivering or mailing it addressed to any other place or places the District or Contractor may designate, by written notice served upon the other.
- 11.2 Any notice may be served effectually upon Contractor by delivering it in writing, or by depositing it in a United States mail deposit box with the postage thereon fully prepared and addressed to Teris LLC dba MSE Environmental, 880 West Verdulera Street, Camarillo, CA 93010, or any notice may be served effectually by delivering or mailing it addressed to any other place or places the District or Contractor may designate, by written notice served upon the other.

ARTICLE 12. FEDERAL GRANTS, STATE GRANTS, PARTICIPATION

In the event a federal or state grant or other federal or state financing participates in the funding of this Project, the Contractor shall permit access to and grant the right to examine its books covering its work under this Contract. Contractor shall comply with federal and/or state requirements as to work hours, overtime compensation, nondiscrimination, and contingent fees.

ARTICLE 13. NONDISCRIMINATION

The Contractor agrees to comply with the applicable provisions of the Equal Employment Opportunity Program of the County of San Bernardino and rules and regulations adopted pursuant thereto: Executive Order 11246, as amended by Executive Order 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act, and other applicable Federal, State, and County laws, regulations and policies relating to equal employment, including laws and regulations hereafter enacted. The Contractor shall not unlawfully discriminate against any employee, applicant for employment, or service recipient on the basis of race, national origin or ancestry, religion, sex, sexual orientation, marital status, age, political affiliation or disability.

ARTICLE 14. WAIVER

No waiver of any of the provisions of the contract documents shall be effective unless it is made in a writing, which refers to provisions so waived, and which is executed by the Parties. No course of dealing and no delay or failure of a Party in exercising any right under any Contract Document shall affect any other or future exercise of that right or any exercise of any other right. A Party shall not be precluded from exercising a right by its having partially exercised that right or its having previously abandoned or discontinued steps to enforce that right.

ARTICLE 15. INDEPENDENT CONTRACTOR

In the performance of this Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the District.

ARTICLE 16. ATTORNEY FEES

If any legal action is instituted to enforce or declare any party's rights hereunder, each party including the prevailing party, must bear its own costs and attorney's fees except as otherwise provided by law. This paragraph shall not apply to those costs and attorney's fees arising directly from any third party legal action against a party hereto and payable under Article 8, Indemnification.

ARTICLE 17. JURY TRIAL WAIVER

Contractor and District hereby waive their respective right to trial by jury and agree to accept trial by judge alone for any cause of action, claim, counterclaim, or cross-complaint in any action, proceeding, and/or hearing brought by either Contractor against District, or District against Contractor, on any matter whatsoever arising out of, or in anyway connected with, this Agreement, the relationship of Contractor and District, or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect

ARTICLE 18. FORMER COUNTY OFFICIALS

Contractor agrees to provide or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent the Contractor. This information includes a list of former county administrative officials who terminated their county employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, "county administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's staff, county department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

ARTICLE 19. INACCURACIES AND MISREPRESENTATIONS

If during the course of the administration of this agreement, the District determines that the Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the District, this contract may be immediately terminated. If this contract is terminated according to this provision, the District is entitled to pursue any available legal remedies.

ARTICLE 20. RIGHT TO MONITOR AND AUDIT

- 20.1 Right to Monitor. The DISTRICT, shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of CONTRACTOR in the delivery of services provided under this Agreement. CONTRACTOR shall give full cooperation, in any auditing or monitoring conducted. CONTRACTOR shall cooperate with the DISTRICT in the implementation, monitoring and evaluation of this agreement and comply with any and all reporting requirements established by the DISTRICT.
- 20.2 Availability of Records. All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by DISTRICT representatives for a period of three years after final payment under the Agreement or until all pending DISTRICT, State and Federal audits are completed, whichever is later. Program data shall be retained locally (in the county) and made available upon request or turned over to District. If said records are not made available at the scheduled monitoring visit, Contractor may, at District's option, be required to reimburse District for expenses incurred due to required rescheduling of monitoring visit(s). Such reimbursement will not exceed \$50 per hour (including travel time) and be deducted from the following month's claim for reimbursement.

Records of the Contractor which do not pertain to the program shall not be subject to audit unless provided for in another agreement.

ARTICLE 21. GOVERNING LAW AND VENUE

This Contract shall be governed by and construed in all aspects in accordance with the laws of the State of California without regard to principles of conflicts of laws. The venue of any action or claim brought by any party to this Agreement will be the Central District Court of San Bernardino COUNTY. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Agreement is brought by any third-party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to San Bernardino COUNTY.

ARTICLE 22. GENERAL PROVISIONS

- 22.1 Contractor shall comply with all applicable laws, statutes, ordinances, administrative orders, rules or regulations relating to its duties, obligations and performance under the terms of the Contract and shall procure all licenses and permits and pay all fees and other charges required thereby. Contractor shall maintain all required licenses and permits during the term of this Contract. Failure to comply with the provisions of this section may result in immediate termination of this Contract.
- 22.2 Contractor shall use recycled and recyclable products, whenever practicable, in fulfilling the terms of this Contract. Recycled printed products shall include a symbol identifying the recycled material.
- 22.3 Contractor shall ensure that it has all necessary licenses and permits required by the laws of the United States, State of California, County of San Bernardino and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of this Contract. Contractor will notify District immediately of loss or suspension of any such licenses and permits. Failure to maintain a required license or permit may result in immediate termination of this Agreement.
- 22.4 Nothing contained in this Contract shall be construed as creating a joint venture, partnership or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the Party hereto.
- 22.5 Any alterations, variations, modifications, or waivers of provisions of the Contract, unless specifically allowed in the Contract, shall be valid only when they have been reduced to writing, duly signed and approved by the Authorized Representatives of both parties as an amendment to this Contract. No oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.
- 22.6. If any provision of the Contract is held by a court of competent jurisdiction to be unenforceable or contrary to law, it shall be modified where practicable to the extent necessary so as to be enforceable (giving effect to the intention of the Parties) and the remaining provisions of the Contract shall not be affected.
- 22.7 Contractor shall strictly adhere to the applicable provisions of the Labor Code regarding the employment of apprentices; minimum wages; travel and subsistence pay; retention and inspection of payroll records; workers' compensation; payment of wages. Contractor shall forfeit to the District the penalties prescribed in the Labor Code for violations.
- 22.8 Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the District in an attempt to secure favorable treatment regarding this Agreement. The District, by written notice, may immediately terminate any Agreement if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the District with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once an Agreement has been awarded. Contractor shall immediately report any attempt by a District officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the District is entitled to pursue any available legal remedies.

22.9 All documents, data, products, graphics, computer programs and reports prepared by Contractor pursuant to this Agreement shall be considered property of the District upon payment for services. All such items shall be delivered to District at the completion of work under this Agreement. Unless otherwise directed by District, Contractor may retain copies of such items.

ARTICLE 23. CONCLUSION

23.2 The signatures of the Parties affixed to this Contract affirm that they are duly authorized to commit and bind their respective institutions to the terms and conditions set forth in this document.

///

DISTRICT:
County Service Area 70, County Fire Department

CONTRACTOR: TERIS LLC, dba MSE
ENVIRONMENTAL.

►
Dennis Hansberger, Chairman, Board of Supervisors

Dated _____

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN
DELIVERED TO THE CHAIRMAN OF THE BOARD.

Clerk of the Board of Supervisors of the County of San Bernardino.

By _____
Deputy

LLC
(State if corporation, company, etc.)

By ►
Chuck Slaughter
(Authorized Signature)

Dated _____

Title _____
VICE PRESIDENT

Address _____

Approved as to Legal Form
►
County Counsel (Scott M. Runyan, Deputy)
Date _____

Reviewed as to Contract Compliance
►
Date _____

Presented to BOS for Signature
►
Department Head
Date _____